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UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 OAKLAND DIVISION

ORACLE USA, INC., *et al.*,  
 Plaintiffs,  
 v.  
 SAP AG, *et al.*,  
 Defendants.

No. 07-CV-01658 PJH (EDL)

**DECLARATION OF JOY SHERROD  
 IN SUPPORT OF ORACLE'S  
 MOTION NO. 6: TO EXCLUDE  
 TESTIMONY OF DEFENDANTS'  
 EXPERT BRUCE SPENCER**

Date: September 30, 2010  
 Time: 9 a.m.  
 Place: Courtroom 3  
 Judge: Hon. Phyllis J. Hamilton

Case No. 07-CV-01658 PJH (EDL)

DECLARATION OF JOY C. SHERROD IN SUPPORT OF ORACLE'S MOT. NO. 6: TO  
 EXCLUDE TESTIMONY OF DEFENDANTS' EXPERT BRUCE SPENCER

1 I, Joy C. Sherrod, declare as follows:

2 1. I am an attorney licensed to practice law in the State of California and am  
3 an associate at Bingham McCutchen LLP, counsel of record for plaintiffs Oracle USA, Inc.,  
4 Oracle International Corporation, Oracle EMEA Ltd., and Siebel Systems, Inc. (collectively,  
5 “Oracle”). Except where stated below on information and belief, I have personal knowledge of  
6 the facts stated within this Declaration and could testify competently to them if required.

7 2. Attached as Exhibit A is a true and correct copy of relevant excerpts from  
8 the Expert Rebuttal Report of Bruce D. Spencer, served by Defendants on March 26, 2010. Non-  
9 relevant portions of the Report have been either excluded or redacted. Defendants produced  
10 Walter Vandaele’s rebuttal report to Dr. Levy on the same day.

11 3. Attached as Exhibit B is a true and correct copy of relevant excerpts from  
12 the transcript of the June 4, 2010 Deposition of Bruce D. Spencer. Non-relevant portions of the  
13 deposition transcript have been either excluded or redacted.

14 4. Attached as Exhibit C is a true and correct copy of relevant excerpts from  
15 the Expert Report of Dr. Daniel S. Levy, served by Oracle on November 16, 2009 and amended  
16 on February 12, 2010. Non-relevant portions of the Report have been either excluded or  
17 redacted.

18 5. Attached as Exhibit D is a true and correct copy of relevant excerpts from  
19 the transcript of the April 30, 2010 Deposition of Dr. Daniel S. Levy. Non-relevant portions of  
20 the deposition transcript have been either excluded or redacted.

21 6. Attached as Exhibit E is a true and correct copy of Defendant  
22 TomorrowNow, Inc.’s Third Amended and Supplemental Response to Plaintiff Oracle USA,  
23 Inc.’s Second Set of Interrogatories, Interrogatory No. 14(A), served by Defendants on  
24 December 4, 2009.

25 7. Attached as Exhibit F is a true and correct copy of ORCLX-AACG-  
26 000020, a document produced to Defendants in surrebuttal by Oracle on April 28, 2010.

27 8. Attached as Exhibit G is a true and correct copy of ORCLX-AACG-  
28 000016, a document produced to Defendants in surrebuttal by Oracle on April 28, 2010.

1                   9.       Attached as Exhibit H is a true and correct copy of relevant excerpts from  
2 Agresti A. and B. Finlay, Statistical Methods for the Social Sciences, Upper Saddle river, New  
3 Jersey: Prentice Hall, 2009.

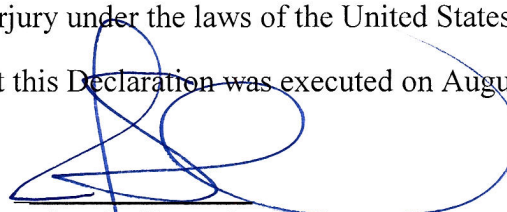
4                   10.       Attached as Exhibit I is a true and correct copy of relevant excerpts from  
5 Macfie B.P. and M.N. Nufrio, Applied Statistics for Public Policy, Armonk, New York: M.E.  
6 Sharpe, 2006.

7                   11.       Attached as Exhibit J is a true and correct copy of relevant excerpts from  
8 Cochran, W.G., Sampling Techniques. Third Edition. New York, New York: John Wiley &  
9 Sons. 1977.

10                  12.       Attached as Exhibit K is a true and correct copy of relevant excerpts from  
11 Federal Judicial Center, Reference Manual on Scientific Evidence. Second Edition. Federal  
12 Judicial Center. 2000.

13                  13.       Attached as Exhibit L is a true and correct copy of relevant excerpts from  
14 Hogg, R.V. and A.T. Craig, Introduction to Mathematical Statistics, Fourth Edition. New York:  
15 Macmillan Publishing Co., Inc. London: Collier Macmillan Publishers. 1978.

16                  I declare under penalty of perjury under the laws of the United States that the  
17 foregoing facts are true and correct, and that this Declaration was executed on August 19, 2010,  
18 in San Francisco, CA.

19   
20 Joy C. Sherrod